

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**DARAIUS DUBASH, and DR. FARAZ
HARSINI**

Plaintiffs,

V.

**CITY OF HOUSTON, TEXAS;
HOUSTON DOWNTOWN PARK
CORPORATION; OFFICER ROBERT
DOUGLAS (# 7943), in his Individual
capacity; OFFICER VERN WHITWORTH
(# 7595), in his individual capacity;
DISCOVERY GREEN CONSERVANCY
f/k/a HOUSTON DOWNTOWN PARK
CONSERVANCY; and BARRY MANDEL,
in his individual capacity,**

Defendants.

**CIVIL ACTION
CASE NO. 4:23-cv-03556**

**UNOPPOSED MOTION PERMITTING DEFENDANTS TO FILE 28-PAGE
MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS**

Defendants City of Houston, Texas, Officer Robert Douglas (# 7943), Officer Vern Whitworth (# 7595), Discovery Green Conservancy, and Barry Mandel (“the Moving Defendants”), move for an Order permitting them to file a 28-page motion to dismiss, in excess of this Court’s 20-page limit, and therefore accepting the motion filed as Docket No. 44.

I. REQUEST

1. This action involves allegations by Plaintiffs that Defendants violated certain rights under the United States Constitution, and the Texas Religious Freedom Restoration Act (“TRFRA”) (found generally at TEX. CIV. PRAC. & REM. CODE § 110.001, *et seq.*). *See* Docket No.

1.

2. On September 20, 2023, Plaintiffs filed their Complaint. *See* Docket No. 1.

3. Today, January 5, 2024, the Moving Defendants timely filed their motion to dismiss pursuant to Rule 12(b)(6) (see Docket No. 44).

4. The Moving Defendants respectfully ask that the Court permit them to file a single 28-page motion to dismiss. Plaintiffs have asserted a total of eight causes of action, alleging First Amendment violations, wrongful arrest, Free Exercise violations, an Unlawful Delegation claim, and violations of the TRFRA. Further, all of the Moving Defendants have different postures from which they are responding to these claims. The claims are asserted against three individuals, a municipality, and a private entity.

5. The named police officers are also moving to dismiss based upon a defense of qualified immunity which is supported by the allegations in the Complaint. Further, the City of Houston and Discovery Green Conservancy each have an argument that the Complaint fails to allege a *Monell* claim against them.

6. Rather than file two motions that would be largely duplicative with respect to the underlying merits of the First Amendment allegations, the Moving Defendants respectfully request that the Court permit them to file one 28-page Memorandum of Law addressing each claim.

7. Plaintiffs' counsel has advised that they do not oppose this request. The Moving Defendants do not oppose the Court granting Plaintiffs the same leave to exceed the page limit, and have taken the liberty of including language in the Proposed Order allowing Plaintiffs to file a 28-page brief in response.

II. PRAYER FOR RELIEF

8. For the foregoing reasons, Defendants City of Houston, Texas, Officer Robert Douglas (# 7943), Officer Vern Whitworth (# 7595), Discovery Green Conservancy, and Barry

Mandel (“the Moving Defendants”), request that the Court grant them leave to file a 28-page motion to dismiss pursuant to Rule 12(b)(6), excluding tables, caption, and signature block.

Respectfully submitted,

s/ Andrew S. Holland

Andrew S. Holland

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**Attorneys for Defendants City of Houston, Texas,
Officer Robert Douglas (# 7943), Officer Vern
Whitworth (# 7595), Discovery Green
Conservancy, and Barry Mandel**

CERTIFICATE OF SERVICE

I, Andrew S. Holland, certify that today, January 5, 2024, I filed the within unopposed motion to exceed the page limit in the Moving Defendants’ motion to dismiss, for filing and service upon all attorneys who have appeared.

s/ Andrew S. Holland

ANDREW S. HOLLAND